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# GENERAL STATUTES

OF THE

# STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE  
THE STATUTES OF THE STATE, BY ACT OF THE  
LEGISLATURE, PASSED FEBRUARY 17, 1863.

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778 PROCEEDINGS TO PREVENT CRIME. [CHAP. CIV.

6 him, or to require him to recognize anew, for his appear-  
 7 ance at some other day, and if, when ordered, he shall not  
 8 so recognize, he shall be committed and detained as before  
 9 provided; whether the person so discharged is recognized,  
 10 committed, or discharged, any person authorized by the  
 11 warrant of the executive, may at all times, take him into  
 12 custody, and the same is a discharge of the recognizance, if  
 13 any, and shall not be deemed an escape.

c100

C. S. p. 739, Sect. 6.

1 SECT. 6. The complainant in such case shall be answer-  
 2 able for the actual costs and charges, and for the support  
 3 in prison, of any person so committed, and shall advance to  
 4 the jailor one week's board, at the time of commitment, and  
 5 so from week to week, so long as such person shall remain  
 6 in jail, and if he fails so to do, the jailor may forthwith dis-  
 7 charge such person from custody.

CHAPTER CIV.

PROCEEDINGS TO PREVENT THE COMMISSION OF  
 CRIMES.

c101

C. S. p. 740, Sect. 1.  
 Amended.

1 SECTION 1. The judges of the several courts of record,  
 2 in vacation within their respective districts, as well as in  
 3 open court, and all justices of the peace, within their res-  
 4 pective counties, shall have power to cause all laws made  
 5 for the preservation of the public peace to be kept, and in  
 6 the execution of that power, may require persons to give  
 7 security to keep the peace, or for their good behavior, or  
 8 both, in the manner provided in this chapter.

C. S. p. 740, Sect. 2.

1 SECT. 2. Whenever complaint is made to any such  
 2 magistrate that any person has threatened to commit an of-  
 3 fense against the person or property of another, the magis-  
 4 trate shall examine the complainant, and any witness who may  
 5 be produced, on oath, and reduce such complaint to writ-  
 6 ing, and cause the same to be subscribed by the com-  
 7 plainant.

C. S. p. 740, Sect. 3.

1 SECT. 3. If upon examination, it appears that there is  
 2 just cause to fear that any such offense may be committed,  
 3 the magistrate shall issue a warrant under his hand, recit-  
 4 ing the substance of the complaint, and requiring the officer  
 5 to whom it is directed, forthwith to apprehend the pers on  
 6 complained of, and bring him before such magistrate, or  
 7 some other magistrate, or court, having jurisdiction of the  
 8 cause.

1 SECT. 4. The magistrate before whom any person is  
 2 brought upon charge of having made threats as aforesaid, C. S. p. 740, Sect. 4. c101  
 3 shall as soon as may be, examine the complainant and the  
 4 witnesses to support the prosecution, on oath, in the pres-  
 5 ence of the party charged, in relation to any matters con-  
 6 nected with such charge, which are deemed pertinent.

1 SECT. 5. After the testimony to support the prosecu- C. S. p. 740, Sect. 5.  
 2 tion, is finished, the witnesses for the prisoner, if he has  
 3 any, shall be sworn and examined, and he may be assisted  
 4 by counsel in such examination, and also in the cross-exam-  
 5 ination of the witnesses in support of the prosecution.

1 SECT. 6. If upon examination it appears that there is  
 2 just cause to fear that any such offense will be committed by  
 3 the party complained of, he shall be required to enter into a C. S. p. 740, Sects. 6  
& 7, combined.  
 4 recognizance, and with sufficient sureties, in such sum as the  
 5 magistrate directs, to keep the peace toward all the people  
 6 of this state, and especially toward the persons requiring  
 7 such security, for such term as the magistrate orders, not  
 8 exceeding six months; but he shall not be ordered to recog-  
 9 nize for his appearance at the district court, unless he is  
 10 charged with some offense for which he ought to be held to  
 11 answer at said court. Upon complying with the order  
 12 of the magistrate, the party complained of shall be dis-  
 13 charged.

1 SECT. 7. If the person so ordered to recognize refuses C. S. p. 741, Sect. 8.  
 2 or neglects to comply with such order, the magistrate shall  
 3 commit him to the county jail during the period for which  
 4 he was required to give security, or until he so recognizes,  
 5 stating in the warrant the cause of commitment; with the  
 6 sum and time for which security was required.

1 SECT. 8. If, upon examination, it shall not appear that C. S. p. 741, Sect. 9.  
 2 there is just cause to fear that any such offense will be com-  
 3 mitted by the party complained of, he shall be forthwith  
 4 discharged; and if the magistrate deems the complaint ma-  
 5 licious, or without probable cause, he shall order the com-  
 6 plainant to pay the costs of prosecution, who shall there-  
 7 upon be answerable to the magistrate and the officer for  
 8 their fees as for his own debt.

1 SECT. 9. When no order respecting the costs is made  
 2 by the magistrate, they shall be allowed and paid in the  
 3 same manner as costs before justices in criminal prosecu- C. S. p. 741, Sect. 10.  
 4 tions; but in all cases where a person is required to give  
 5 security to keep the peace or for his good behavior, the  
 6 magistrate may further order the costs of prosecution or any  
 7 part thereof to be paid by such person, who shall stand

8 committed until such costs are paid, or he is otherwise le-  
9 gally discharged.

c101

C. S. p. 741, Sect. 11.

1 SECT. 10. Any person aggrieved by the order of any  
2 justice of the peace requiring him to recognize as aforesaid,  
3 may, on giving the security required, appeal to the district  
4 court next to be holden in the same county, or that county  
5 to which said county is attached for judicial purposes.

C. S. p. 741, Sect. 12.

1 SECT. 11. The magistrate from whose order an ap-  
2 peal is so taken, shall require such witnesses, as he may  
3 think necessary to support the complaint, to recog-  
4 nize for their appearance at the court to which appeal is  
5 made.

C. S. p. 741, Sect. 13.

1 SECT. 12. The court before which such appeal is prose-  
2 cuted may affirm the order of the justice or discharge the  
3 appellant, or may require the appellant to enter into a new  
4 recognizance, with sufficient sureties, in such sum and for  
5 such time as the court thinks proper, and may also make  
6 such order in relation to the costs of prosecution as he  
7 deems just and reasonable.

C. S. p. 741, Sect. 14.

1 SECT. 13. If any party appealing fails to prosecute his  
2 appeal, his recognizance shall remain in full force and effect  
3 as to any breach of the condition, without an affirmation of  
4 the judgment or order of the magistrate, and shall also  
5 stand as a security for any costs which shall be ordered by  
6 the court appealed to, to be paid by the appellant.

C. S. p. 741, Sect. 15.

1 SECT. 14. Any person committed for not finding  
2 sureties or refusing to recognize as required by the  
3 court or magistrate, may be discharged by any judge  
4 or justice of the peace, on giving such security as was re-  
5 quired.

C. S. p. 741, Sect. 16.

1 SECT. 15. Every recognizance taken in pursuance of  
2 the foregoing provision shall be transmitted by the magis-  
3 trate to the district court for the county, on or before the  
4 first day of the next term, and shall be there filed or recor-  
5 ded by the clerk.

C. S. p. 741, Sect. 17.

1 SECT. 16. Any person who shall in the presence of any  
2 magistrate mentioned in the first section of this chapter, or  
3 before any court of record, make an affray or threaten to  
4 kill or beat another, or to commit any violence or outrage  
5 against his person or property, and every person, who in  
6 the presence of such court or magistrate shall contend with  
7 hot and angry words, to the disturbance of the peace, may  
8 be ordered without process or any other proof, to recog-

9 nize for keeping the peace, and being of good behavior, for  
10 a term not exceeding six months, and in case of a refusal  
11 may be committed as before directed.

1 SECT. 17. Whoever goes armed with a dirk, dagger, C. S. p. 742, Sect. 18. *C 101*  
2 sword, pistol or pistols, or other offensive and dangerous  
3 weapon, without reasonable cause to fear an assault or oth-  
4 er injury or violence to his person, or to his family or prop-  
5 erty, may, on complaint of any other person having reason-  
6 ble cause to fear an injury or breach of the peace, be requir-  
7 ed to find sureties for keeping the peace, for a term not  
8 exceeding six months, with the right of appealing as before  
9 provided.

1 SECT. 18. Whenever upon an action brought on any C. S. p. 742, Sect. 19.  
2 such recognizances, the penalty thereof is adjudged forfeit-  
3 ed, the court may remit such portion of the penalty on the  
4 petition of any defendant, as the circumstances of the case  
5 render just and reasonable.

1 SECT. 19. Any surety in a recognizance to keep the C. S. p. 742, Sect. 20.  
2 peace, or for good behavior, or both, has authority and right to  
3 take and surrender his principal, and upon such surrender shall  
4 be discharged and exempted from all liability for any act of  
5 the principal subsequent to such surrender, which would be  
6 a breach of the condition of the recognizance; and the per-  
7 son so surrendered may recognize anew with sufficient sure-  
8 ties, before any justice of the peace for the residue of the  
9 term, and thereupon shall be discharged.

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## CHAPTER CV.

### ARRESTS.

1 SECTION 1. Arrest is the taking of a person into custo- C. S. p. 742, Sect. 1. *C 102*  
2 dy, that he may be held to answer for a public offense.

1 SECT. 2. An arrest may be either : C. S. p. 743, Sect. 2.  
2 *First.*—By a peace officer under a warrant ;  
3 *Second.*—By a peace officer without a warrant ;  
4 *Third.*—By a private person.

1 SECT. 3. Every person must aid an officer in the exe-  
2 cution of a warrant, if the officer requires his aid, and is C. S. p. 743, Sect. 3.  
3 present and acting in its execution.